

1 *Senate* BILL NO. *195*
 2 INTRODUCED BY *Thyrum Warden Loue Healy*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 11-3864, R.C.M. 1947, TO REQUIRE PARK AND PLAYGROUND
 6 DEDICATION ONLY WHEN DENSITY DEMANDS; TO ELIMINATE CASH
 7 DONATIONS IN LIEU OF DEDICATION, AND TO PROVIDE FOR THE SALE
 8 OF SUCH DEDICATED LANDS."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 11-3864, R.C.M. 1947, is amended to
 12 read as follows:

13 "11-3864. Dedications of portions of subdivisions to
 14 the public ~~— cash donations in lieu of dedications —~~
 15 ~~waivers. (1) A plat of a residential subdivision shall show~~
 16 ~~that one-ninth (1/9) of the combined area of lots five (5)~~
 17 ~~acres or less in size and one-twelfth (1/12) of the combined~~
 18 ~~area of lots greater than five (5) acres in size, exclusive~~
 19 ~~of all other dedications, is forever dedicated to the public~~
 20 ~~for parks or playgrounds. No dedication may be required for~~
 21 ~~the combined area of those lots in the subdivision which are~~
 22 ~~larger than ten (10) acres exclusive of all other~~
 23 ~~dedications. The governing body, in consultation with the~~
 24 ~~planning board having jurisdiction, may determine suitable~~
 25 ~~locations for such parks and playgrounds. The governing body~~

1 shall adopt, within the 6-month period following [the
 2 effective date of this act], regulations for the dedication
 3 of land to the public for park land to serve the residents
 4 of the subdivision. All park requirements shall apply within
 5 the jurisdictional area of a city or county planning board.
 6 Subdivisions with less than five (5) parcels and/or lots of
 7 more than ten thousand (10,000) square feet are exempt from
 8 the provisions of this act. Subdivisions with lots of ten
 9 thousand (10,000) square feet or less shall dedicate five
 10 hundred (500) square feet per lot for park land. The amount
 11 of park land shall be computed on the total square footage
 12 of the subdivision less the square footage of roadways
 13 within the subdivision.

14 (2) Where, because of ~~size,~~ topography, shape,
 15 location, or other circumstances, the dedication of land for
 16 parks or playgrounds is undesirable, the governing body may,
 17 for good cause shown, make an order to be endorsed and
 18 certified on the plat ~~accepting a cash donation in lieu of~~
 19 ~~the dedication of land and equal to the fair market value of~~
 20 ~~the amount of land that would have been dedicated stating~~
 21 that due to topography, shape, location, or other
 22 circumstances, park dedication is undesirable. For the
 23 purpose of this section, the fair market value is the value
 24 of the unsubdivided, unimproved land. Such cash donation
 25 shall be paid into the park fund to be used for the purchase

1 ~~of additional lands or for the initial development of parks~~
 2 ~~and playgrounds. Any dedicated lands for park use may be~~
 3 ~~sold by the city or county provided that they are sold at~~
 4 ~~public auction to the highest bidder, but at a price not~~
 5 ~~less than the average of three appraisals for market value.~~
 6 ~~Proceeds of such sales shall be used to develop or maintain~~
 7 ~~other parks or acquire lands adjacent to existing parks~~
 8 ~~within the city or county.~~

9 (3) If the proposed plat provides for a planned unit
 10 development with land permanently set aside for park and
 11 recreational uses sufficient to meet the needs of the
 12 persons who will ultimately reside therein, the governing
 13 body may issue an order waiving land dedication ~~and cash~~
 14 ~~donation~~ requirements.

15 (4) If a tract of land is being developed under single
 16 ownership as a part of an overall plan, and part of the
 17 tract has been subdivided and sufficient park lands have
 18 been dedicated to the public from the area that has been
 19 subdivided to meet the requirements of this section for the
 20 entire tract being developed, the governing body shall issue
 21 an order waiving the land dedication ~~and cash donation~~
 22 requirements for the subsequently platted area.

23 ~~(5) The local governing body may waive dedication and~~
 24 ~~cash donation requirements where all of the parcels in a~~
 25 ~~subdivision are five (5) acres or more in size and where the~~

1 ~~subdivider enters a covenant to run with the land and~~
 2 ~~revocable only by actual consent of the governing body and~~
 3 ~~the property owner that the parcels in the subdivision will~~
 4 ~~never be subdivided into parcels of less than five (5) acres~~
 5 ~~and that all parcels in the subdivision will be used for~~
 6 ~~single family dwellings.~~

7 ~~(6)(5)~~ The governing body may waive dedication and
 8 cash donation requirements when the subdivider agrees to
 9 create a property owners' association for the proposed
 10 subdivision and to deed to the association land to be held
 11 in perpetuity for use as parks or playgrounds. The area of
 12 land to be deeded to the association shall equal the amount
 13 that would otherwise have been dedicated to public use.

14 ~~(7)(6)~~ The governing body may waive dedication and
 15 cash donation requirements for subdivision to be created by
 16 rent or lease where the subdivider agrees to develop parks
 17 or playgrounds within the subdivision for the common use of
 18 the residents of the subdivision. The area of land to be
 19 reserved for this purpose shall equal the amount that would
 20 otherwise have been dedicated to the public."

-End-

Approved by Comm.
on Local Government

SENATE BILL NO. 195

INTRODUCED BY FLYNN, WARDEN, LOWE, BEALY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 11-3864, F.C.M. 1947, TO REQUIRE PARK AND PLAYGROUND DEDICATION ONLY WHEN DENSITY DEMANDS, ~~TO ELIMINATE CASH DONATIONS IN LIEU OF DEDICATION,~~ AND TO PROVIDE FOR THE SALE OF SUCH DEDICATED LANDS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-3864, R.C.M. 1947, is amended to read as follows:

"11-3864. Dedications of portions of subdivisions to the public ~~cash donations in lieu of dedications~~ ~~waivers. (1) A plat of a residential subdivision shall show that one ninth (1/9) of the combined area of lots five (5) acres or less in size and one twelfth (1/12) of the combined area of lots greater than five (5) acres in size, exclusive of all other dedications, is forever dedicated to the public for parks or playgrounds. No dedication may be required for the combined area of those lots in the subdivision which are larger than ten (10) acres exclusive of all other dedications. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds. The governing body~~

shall adopt, within the 6-month period following [the effective date of this act], regulations for the dedication of land to the public for park land to serve the residents of the subdivision. All park requirements shall apply within the jurisdictional area of a city or county planning board. Subdivisions with less than five (5) parcels OR FEWER and/or lots of more than ten thousand (10,000) square feet 1 ACRE IN SIZE are exempt from the provisions of this act. Subdivisions with lots of ten thousand (10,000) square feet 1 ACRE or less shall dedicate five hundred (500) square feet per lot for park land. The amount of park land shall be computed on the total square footage of the subdivision less the square footage of roadways within the subdivision.

(2) Where, because of ~~size,~~ SIZE, topography, shape, location, or other circumstances, the dedication of land for parks or playgrounds is undesirable, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat accepting ~~a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated~~ stating that due to topography, shape, location, or other circumstances, park dedication is undesirable ACCEPTING A CASH DONATION IN LIEU OF THE DEDICATION OF LAND AND EQUAL TO THE FAIR MARKET VALUE OF THE AMOUNT OF LAND THAT WOULD HAVE BEEN DEDICATED. FOR THE PURPOSE OF THIS SECTION, THE FAIR

1 MARKET VALUE IS THE VALUE OF THE UNDIVIDED, UNIMPROVED LAND.
 2 SUCH CASH DONATION SHALL BE PAID INTO THE PARK FUND TO BE
 3 USED FOR THE PURCHASE OF ADDITIONAL PARK LANDS OR FOR
 4 INITIAL DEVELOPMENT OF PARKS AND PLAYGROUNDS. ~~For the~~
 5 purpose of this section, the fair market value is the value
 6 of the un subdivided, unimproved land. Each cash donation
 7 shall be paid into the park fund to be used for the purchase
 8 of additional lands or for the initial development of parks
 9 and playgrounds. Any dedicated lands for park use may be
 10 sold by the city or county provided that they are sold at
 11 public auction to the highest bidder, but at a price not
 12 less than the average of three appraisals for market value.
 13 Proceeds of such sales shall be used to develop or maintain
 14 other parks or acquire PARK lands adjacent to existing parks
 15 within the city or county.

16 (3) If the proposed plat provides for a planned unit
 17 development with land permanently set aside for park and
 18 recreational uses sufficient to meet the needs of the
 19 persons who will ultimately reside therein, the governing
 20 body may issue an order waiving land dedication ~~and cash~~
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22 (4) If a tract of land is being developed under single
 23 ownership as a part of an overall plan, and part of the
 24 tract has been subdivided and sufficient park lands have
 25 been dedicated to the public from the area that has been

1 subdivided to meet the requirements of this section for the
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6 ~~(5) The local governing body may waive dedication and~~
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 9 ~~subdivider enters a covenant to run with the land and~~
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15 ~~(6)~~ (5) The governing body may waive dedication and
 16 cash donation requirements when the subdivider agrees to
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 19 in perpetuity for use as parks or playgrounds. The area of
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 21 that would otherwise have been dedicated to public use.

22 ~~(7)~~ (6) The governing body may waive dedication and
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1 the residents of the subdivision. The area of land to be
2 reserved for this purpose shall equal the amount that would
3 otherwise have been dedicated to the public."

-End-

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~~shall adopt, within the 6-month period following [the effective date of this act], regulations for the dedication of land to the public for park land to serve the residents of the subdivision. All park requirements shall apply within the jurisdictional area of a city or county planning board. Subdivisions with less than five (5) parcels OR FEWER and/or lots of more than ten thousand (10,000) square feet 1 ACRE IN SIZE are exempt from the provisions of this act. Subdivisions with lots of ten thousand (10,000) square feet 1 ACRE or less shall dedicate five hundred (500) square feet per lot for park land. The amount of park land shall be computed on the total square footage of the subdivision less the square footage of roadways within the subdivision.~~

(2) Where, because of ~~size,~~ SIZE, topography, shape, location, or other circumstances, the dedication of land for parks or playgrounds is undesirable, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat ~~accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated stating that due to topography, shape, location, or other circumstances, park dedication is undesirable~~ ACCEPTING A CASH DONATION IN LIEU OF THE DEDICATION OF LAND AND EQUAL TO THE FAIR MARKET VALUE OF THE AMOUNT OF LAND THAT WOULD HAVE BEEN DEDICATED. FOR THE PURPOSE OF THIS SECTION, THE FAIR

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 19 persons who will ultimately reside therein, the governing
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2 reserved for this purpose shall equal the amount that would
3 otherwise have been dedicated to the public."

-End-

HOUSE OF REPRESENTATIVES

April 6, 1977

HOUSE COMMITTEE ON NATURAL RESOURCES AMENDMENTS TO SENATE BILL 195

1. Amend page 1, section 1, line 25 through line 13 on page 2.

Following: "~~playgrounds-~~"

Strike: line 25 on page 1 through line 13 on page 2 in their entirety

Insert: "Within 6 months following the effective date of this act, the governing body shall specify in its local subdivision regulations requirements for the dedication in perpetuity of land to the public for parks or playgrounds designed to serve the residents of a subdivision. Different requirements may be established for subdivisions of different densities, but all requirements must apply uniformly throughout the jurisdiction. Park requirements must be based on a ratio of park area to number of dwelling units of no less than 500 square feet per dwelling unit and no more than 3,000 square feet per dwelling unit. Local regulations may not require any dedication of land for parks when the net density of the proposed subdivision is less than one dwelling unit per 5 acres. Until local governing bodies amend their subdivision regulations to comply with this section, the minimum requirements above shall apply."

2. Amend page 3, section 1, subsection (2), line 4.

Following: "PLAYGROUNDS"

Insert: "and up to one-third of the cash received in lieu of land dedicated under this section may be used for routine maintenance and upkeep of existing parks or playgrounds. Park fund moneys shall be expended according to a park plan or policy statement which must be adopted by the governing body before expenditure of the park funds."

(3) Local subdivision regulations may not require the dedication of parkland or the contribution of cash in lieu thereof for subdivisions which create no additional building sites or for resubdivisions which create two or less additional building sites"

Renumber: subsequent subsections

3. Amend page 3, section 1, lines 9 through 15.

Following: "~~playgrounds-~~"

Strike: lines 9 through 15 in their entirety

AS AMENDED

BE CONCURRED IN

SENATE BILL NO. 195

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~~shall adopt, within the 6 month period following the effective date of this act, regulations for the dedication of land to the public for park land to serve the residents of the subdivision. All park requirements shall apply within the jurisdictional area of a city or county planning board's subdivisions with less than five (5) parcels OR FEWER and/or lots of more than ten thousand (10,000) square feet 1 ACRE IN SIZE are exempt from the provisions of this act. Subdivisions with lots of ten thousand (10,000) square feet 1 ACRE or less shall dedicate five hundred (500) square feet per lot for park lands. The amount of park land shall be computed on the total square footage of the subdivision less the square footage of roadways within the subdivision. WITHIN 6 MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS ACT, THE GOVERNING BODY SHALL SPECIFY IN ITS LOCAL SUBDIVISION REGULATIONS REQUIREMENTS FOR THE DEDICATION IN PERPETUITY OF LAND TO THE PUBLIC FOR PARKS OR PLAYGROUNDS DESIGNED TO SERVE THE RESIDENTS OF A SUBDIVISION. DIFFERENT REQUIREMENTS MAY BE ESTABLISHED FOR SUBDIVISIONS OF DIFFERENT DENSITIES, BUT ALL REQUIREMENTS MUST APPLY UNIFORMLY THROUGHOUT THE JURISDICTION. PARK REQUIREMENTS MUST BE BASED ON A RATIO OF PARK AREA TO NUMBER OF DWELLING UNITS OF NO LESS THAN 500 SQUARE FEET PER DWELLING UNIT AND NO MORE THAN 3,000 SQUARE FEET PER DWELLING UNIT. LOCAL REGULATIONS MAY NOT REQUIRE ANY DEDICATION OF LAND FOR PARKS WHEN THE NET DENSITY OF THE~~

1 PROPOSED SUBDIVISION IS LESS THAN ONE DWELLING UNIT PER 5
 2 ACRES. UNTIL LOCAL GOVERNING BODIES AMEND THEIR SUBDIVISION
 3 REGULATIONS TO COMPLY WITH THIS SECTION, THE MINIMUM
 4 REQUIREMENTS ABOVE SHALL APPLY.

5 (2) Where, because of ~~size~~ SIZE, topography, shape,
 6 location, or other circumstances, the dedication of land for
 7 parks or playgrounds is undesirable, the governing body may,
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 25 STATEMENT WHICH MUST BE ADOPTED BY THE GOVERNING BODY BEFORE

1 EXPENDITURE OF THE PARK FUNDS.

2 (3) LOCAL SUBDIVISION REGULATIONS MAY NOT REQUIRE THE
 3 DEDICATION OF PARKLAND OR THE CONTRIBUTION OF CASH IN LIEU
 4 HEREOF FOR SUBDIVISIONS WHICH CREATE NO ADDITIONAL BUILDING
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 16 ~~PARK lands adjacent to existing parks within the city or~~
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 19 unit development with land permanently set aside for park
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-End-